IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 3099 (S/S) of 2001

Hon'ble P.C. Verma, J.

For Order, see my order of date passed on separate sheet kept in Writ Petition No. 3377 (S/S) of 2001.

26.7.2001 Sd/-
P.Singh

Court No.1

(1) Writ Petition No. 3377 (S/S) of 2001
Karam Singh Rawat .....Petitioner

Versus

Divisional Forest Officer,
Narandra Nagar Forest
Division, Tehri Garhwal, ...Respondent.

AND

(2) Writ Petition No. 3099 (S/S) of 2001

Lalit Mohan Kestwal .....Petitioner

versus

Divisional Forest Officer,
Uttaranchal Forest Division,
Uttarakashi. .....Respondent.

Hon'ble P.C. Verma, J.

Both these writ petitions are connected writ each other, hence they are being disposed of by a common order.

These writ petitions raise a common question to be decided i.e. as to whether the age of retirement of Resin Moharrir would be 58 years or 60 years i.e. Resin Moharrirs belong to group 'D' service or group 'C' service. The services of the Resin Moharrirs are governed by Lower Subordinate Forest Service Rules, 1980. The Rule-2 of the above Service Rules defines the status of the service i.e. Lower Subordinate Forest Service comprises group 'D' posts. Rule-3 (i) defines the "Moharrirs" include Export Moharrir, check Moharrir, Loading Moharrir, Passing Moharrir. Resin Moharrir is contained in schedule appended with the Rules. Rule-4 of the Rules provides for the cadre of service. The Rule-5 of the Rules provides sources of recruitment, which is relevant for the purposes of these writ petitions. Therefore, Rules-5 is reproduced as under:-

"5. Sources of recruitment. –Recruitment to the service shall be made from the following sources :

A.Jamadars and Moharrirs-

(i) By promotion from amongst permanent Guards (Excluding Wild Life Grads); and

(ii) By direct recruitment.

Note.-Recruitment shall be so arranged that, as far as possible, 50 per cent posts in the cadre are held by direct recruits and the rest by promotions.

B. Guards-

(1) 90 per cent of the vacancies by direct recruitments;

Provided that out of such 90 per cent vacancies, recruitment shall be so arranged that, as far as possible-

(a) 25 per cent vacancies are filled by candidates from open market,

(b) 65 per cent vacancies are filled from amongst seasonal workers.

(2) 10 per cent of the vacancies by promotion from amongst per manent Class-IV (Group D) employees who have passed the High School Examination in Science or Agriculture:

Provided that it shall not be necessary for class IV (Group D) employees to have High School Examination Certificate if they were recruited before August 1, 1972. But it any case they must have passed the Junior High School Examination."

From the above quoted Rule, it is clear that 50 per cent posts of the Moharrirs are to be filled up from amongst the Guards and 50 per cent posts are to be filled up by direct recruitment. 90 per cent posts of Guards are to be filled up by direct recruitment and 10 per cent of the vacancies of the Guards are to be filled up from amongst permanent Class-IV (Group D) employees. Therefore, Resin Moharrirs come within the category of Group 'C' posts.

Learned counsel for the petitioners further submits that since Status of service is provided to be of Group 'D' posts, therefore, the Moharrirs are of Group 'D' posts. The argument of learned counsel for the petitioners is misconceived. Rule-2 of the Lower Subordinate Forest Service Rules,1980 itself provides that Lower Subordinate Forest Service comprises group 'D' posts. It does not mean that all the posts of Lower Subordinate Forest Service is of group 'D' posts but it comprises group 'D' posts also.

Learned counsel for the petitioners further submits that there may be various category in

group ‘D’ posts; one may be of lower pay scale and another may be of higher pay scale. Since the posts of Moharrirs are to be filled up by way of promotion, therefore, even if the argument of the learned counsel for the petitioners is accepted, even then the Resin Moharrirs will not be belonging to inferior service as required under Rule-56 of Financial Hand Book, Vol. II (Part-II to IV) for retirement at the age of 60 years. The G.P.F. slip issued by Department to the petitioners, showing their pay scale as Class-IV employees has also no force as the service Rules are itself clear and unambiguous.

Thus, for the reasons recorded above, I hold that Resin Moharrirs hold the Group ‘D’ posts and they shall retire at the age of 58 years.

For the reasons recorded above, both these writ petitions fail and are dismissed.

A Photostat copy of this order be placed in the connected writ petition No.3099 (S/S) of 2001.

P.C. Verma, J.

26.7.2001
P.Singh